

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DYLAN CORRAL,

Defendant.

CASE NO. 3:22-cr-00048-JCC-TLF

FINDINGS AND  
RECOMMENDATION

The District Court has referred, under Fed. R. Crim. P. 59, the hearing to determine whether defendant is presently competent, and whether he should be committed for competency restoration. Dkt. 139. The District Court reviews the Magistrate Judge's report and findings under a *de novo* standard of review if there are Constitutional issues to be resolved. *United States v. Raddatz*, 447 U.S. 667, 683 (1980); *U.S. v. Rivera-Guerrero*, 377 F.3d 1064, 1070-1071 (9th Cir. 2004).

The Court should hold that defendant is mentally incompetent; and the Court should find he is not presently able to "consult with [their] counsel with a reasonable

1 degree of rational understanding and a rational, as well as factual understanding of the  
2 proceedings.” *Dusky v. United States*, 362 U.S. 402, 402 (1960). The District Court  
3 should commit him to custody for a determination of restorability and proceedings  
4 pursuant to 18 U.S.C. § 4241.

### 5 **A. BACKGROUND**

#### 6 **1. First Competency Hearing.**

7 On September 21, 2022, the Honorable John C. Coughenour ordered a  
8 competency evaluation under 18 U.S.C. §§ 4241(b), 4247(b)–(c). Dkt. 17. The Court  
9 ordered a hearing, which was held on June 5, 2023 (after two hearings were scheduled  
10 in May, but required re-setting because of a scheduling conflict, and an illness). Dkt. 55,  
11 56, 61, 65, 66. The defendant was found competent to stand trial at that time. Dkt. 75,  
12 86.

13 Mr. Corral’s filed two motions to remove his previous attorney; the first was  
14 denied, but after additional developments, the second motion was granted by the Court  
15 on August 29, 2023. Dkt. 69, 72, 75, 76, 77, 82, 85, 86, 87, 88, 89, 90, 92, 93, 95, 96,  
16 97, 100, 102, 103, 107. Substitution of counsel was effectuated and his current attorney,  
17 Ms. Danica Mazenko, was appointed on September 8, 2023, under the CJA process.  
18 Dkt. 103, 107. Mr. Corral filed a third motion to substitute counsel on September 27,  
19 2023. Dkt. 112, 112-1.

20 The Court held a hearing and recommended that no decision should be made on  
21 the third motion to substitute counsel until the defendant’s competency to stand trial was  
22 again reviewed. Dkt. 122. The Findings and Recommendation was approved and  
23 adopted by the Hon. John C. Coughenour, and the Court referred the competency  
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1 hearing to the Magistrate Judge. Dkt. 139. In addition, after the defendant refused to be  
2 transported to the MDC in Los Angeles for evaluation, Judge Coughenour ordered that  
3 a new psychiatrist or clinical psychologist would be appointed, to evaluate Mr. Corral's  
4 mental health and to issue a report under 18 U.S.C. § 4241(a). Dkt. 149.

5 Defendant Dylan Corral stands charged under 18 U.S.C. § 876(c) with mailing  
6 interstate threats. Dkt. 1. After the Court ordered the first competency evaluation, Dr.  
7 Tiffany Smith, a forensic psychologist at the U.S. Bureau of Prisons' Metropolitan  
8 Detention Center in Los Angeles, reviewed Mr. Corral's records and considered other  
9 information such as phone calls that were being monitored by the Bureau of Prisons.  
10 Dkt. 33, Ext. A; Dkt. 27 (Report of Dr. Smith – admitted into evidence as Ex. B during  
11 the hearing); Dkt. 75 at 1-2.

12 Mr. Corral declined to participate in the competency evaluation with Dr. Smith;  
13 she relied on a review of records, and on other observations of him. Dkt. 27, at 1-2.  
14 Among the diagnoses that Dr. Smith gave for Mr. Corral was a diagnosis of antisocial  
15 personality disorder, and a provisional diagnosis of bipolar 1 disorder. Dkt 27, at 9-10;  
16 Dkt. 75 at 4.

17 At the close of the first competency hearing, both the prosecution and the  
18 defense argued that the defendant was, at that time, presently competent to stand trial.  
19 The Court made findings of fact, and found that in June of 2023, the defendant was  
20 competent to stand trial. *Id.* The Magistrate Judge issued Findings and  
21 Recommendations that Mr. Corral was competent at that time, and the District Court,  
22 after de novo review, agreed. Dkts. 75, 86.  
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1 Mr. Corral then made a motion to remove his attorney, and after a referral from  
2 Judge Coughenour, the Court held a hearing on that motion and found that substitution  
3 of counsel was warranted. Dkts. 103, 107. Then, two weeks later, Mr. Corral filed a  
4 second motion to substitute counsel. Dkt. 112. The Court referred the motion to the  
5 Magistrate Judge, and a status conference was held on October 10, 2023. Dkt. 121.

6 Counsel for the defense expressed during the hearing that she was concerned  
7 about whether Mr. Corral could assist in his defense. The Court held an *in camera*  
8 portion of the hearing, to protect attorney-client privilege, and filed Findings and  
9 Recommendation that the Court should defer any decision on the defendant's motion to  
10 substitute counsel. Dkt. 122. The Magistrate Judge also recommended that another  
11 competency hearing should be conducted. Dkt. 122.

## 12 2. Second Competency Hearing.

13 Following de novo review by Judge Coughenour, the Court adopted the Findings  
14 and Recommendation, and ordered an evaluation by a psychiatrist or clinical  
15 psychologist, and ordered a second competency hearing should be held; the  
16 competency hearing and related issues were then referred to the Magistrate Judge. Dkt.  
17 139. Judge Coughenour subsequently modified his order and instructed the parties to  
18 select a local psychologist, not associated with the BOP, to conduct the evaluation. Dkt.  
19 149. The parties selected Dr. Charles Saldanha to conduct the evaluation of Mr. Corral.  
20 Dkt. 154.

21 Mr. Corral's competency hearing was scheduled for April 1, 2024. At the outset of  
22 the hearing, the Court was informed that Mr. Corral would not agree to be transported  
23 from the Sacramento County Jail to the United States District Court in Sacramento for  
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1 the hearing. Dkt. 164, Transcript of Competency/Evidentiary Hearing, at 3:15-23. Mr.  
2 Corral was asked again in the afternoon to attend the hearing; Mr. Corral declined.

3 The Magistrate Judge issued a Findings and Recommendation that the Court  
4 should explore the issue of whether Mr. Corral has the ability to knowingly, voluntarily,  
5 and intentionally waive his right to be present at the competency hearing, and the issue  
6 of whether Mr. Corral has the ability to knowingly, voluntarily, and intentionally waive his  
7 right to testify at the competency hearing. The Magistrate Judge advised that this could  
8 be done by appointing a psychiatrist or clinical psychologist to evaluate Mr. Corral for  
9 this limited purpose, along with appointing a criminal defense attorney to consult with  
10 and advise Mr. Corral, and advise the Court, for this limited purpose. Dkt. 169. Judge  
11 Coughenour declined to adopt the Findings and Recommendation and ordered the  
12 United States Marshals Service and the Sacramento Jail deputies to remove Mr. Corral  
13 from his cell, using whatever means necessary if he refused to voluntarily be removed,  
14 and deliver Mr. Corral to the United States District Court for the Eastern District of  
15 California for a competency hearing before the Magistrate Judge. Dkt. 170.

16 The competency hearing took place on May 24, 2024, as discussed below. Dkt.  
17 171.

## 18 DISCUSSION

### 19 A. Legal Standards

20 “At any time after the commencement of a prosecution for an offense and prior to  
21 the sentencing,” a court may order a hearing to determine the mental competency of a  
22 defendant. 18 U.S.C. § 4241(a). Upon the parties’ motion or *sua sponte* if there is  
23 reasonable cause to question the defendant’s competency, the Court must hold such a  
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1 hearing. 18 U.S.C. § 4241(a).

2 The Court must determine “by a preponderance of the evidence” whether “the  
3 defendant is presently suffering from a mental disease or defect rendering him mentally  
4 incompetent to the extent that he is unable to understand the nature and consequences  
5 of the proceedings against him or to assist properly in his defense.” 18 U.S.C. §  
6 4241(d).

7 If the Court finds the defendant is not competent, the Court must “commit the  
8 defendant to the custody of the Attorney General” for hospitalization and treatment to  
9 restore competency. 18 U.S.C. § 4241(d).

10 A defendant is considered competent if they have:

- 11 • a rational and factual understanding concerning the nature and object of the
- 12 proceedings;
- 13 • the ability to consult with their lawyer; and
- 14 • the ability to assist in preparation of their defense.

15 *Drope v. Missouri*, 420 U.S. 162, 171 (1975).

16 “[T]he criminal trial of an incompetent defendant violates due process.” *Cooper v.*  
17 *Oklahoma*, 517 U.S. 348, 354 (1996); *Medina v. California*, 505 U.S. 437, 453 (1992);  
18 *Drope v. Missouri*, 420 U.S. 162, 171-72 (1975). A defendant is competent to stand trial  
19 if he or she has “ ‘sufficient present ability to consult with his lawyer with a reasonable  
20 degree of rational understanding’ and has ‘a rational as well as a factual understanding  
21 of the proceedings against him.’ ” *Godinez v. Moran*, 509 U.S. 389, 396 (1993); *Dusky*  
22 *v. United States*, 362 U.S. 402 (1960).

23 When a defendant requests substitution of appointed counsel and there are also  
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1 issues raised about whether the defendant is competent to stand trial, the court may  
 2 consider whether the alleged mental disease or defect is connected to the difficulties  
 3 with their attorney. *See United States v. Telles*, 18 F. 4th 290, 296-300 (9th Cir. 2021).

4 To make this determination, the Court considers the following factors, any one of  
 5 which – standing alone – may in some circumstances be sufficient to prove  
 6 incompetence to stand trial: evidence of the defendant’s irrational behavior; defendant’s  
 7 demeanor in the courtroom; prior medical opinions concerning the defendant’s  
 8 competence to stand trial. *Drope*, at 180; *Miles v. Stainer*, 108 F.3d 1109, 1112 (9<sup>th</sup> Cir.  
 9 1997).

#### 10 **B. Proposed findings of fact**

11 Dr. Saldanha received his medical degree from Duke University School of  
 12 Medicine, completed his residency in general adult psychiatry from University of  
 13 California, San Francisco, and conducted his fellowship in forensic psychiatry at Yale  
 14 University School of Medicine. Dkt. 161 at 88. He currently acts as the Assistant  
 15 Medical Director for the Forensic Psychiatric Associates. Along with his vast experience  
 16 at various psychiatric hospitals and centers, he has also served as an expert witness in  
 17 at least 10 cases in federal and state court. Dkt. 188 (Transcript) at 12:23-13:1. The  
 18 Court found that Dr. Saldanha was qualified to serve as an expert witness during the  
 19 hearing. Dkt. 188 at 14:4-10.

20 Dr. Saldanha met with Mr. Corral on February 22, 2024, as part of his evaluation  
 21 for over three hours to conduct a psychiatric interview which included administration of  
 22 the Evaluation of Competency to Stand Trial – Revised (“ECST-R”). Dkt. 161 (Report of  
 23 Dr. Saldanha – admitted into evidence as Exhibit 2 during the hearing). He interviewed  
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1 Mr. Corral in a private visiting booth at the Sacramento County Jail. Dr. Saldanha  
2 concluded, based on materials reviewed<sup>1</sup> (see Appendix A) and his interview with Mr.  
3 Corral, that Mr. Corral presented with evidence of an acute episode of schizoaffective  
4 disorder, bipolar type. This, in Dr. Saldanha's opinion, renders Mr. Corral incompetent to  
5 the extent that he was unable to understand the nature and consequences of the  
6 proceedings against him and to assist properly in his defense. Though he had adequate  
7 factual knowledge of the proceedings, his ability to rationally consult with counsel and  
8 rationally understand the proceedings was severely impaired. Dkt. 161 at 2.

9 Mr. Corral informed Dr. Saldanha that he has been "under surveillance" since he  
10 was 19 years old. Dkt. 161 at 4. Mr. Corral stated that, with his being paranoid while on  
11 methamphetamine, people in his town started to follow him around to "trick [him] out."  
12 *Id.* at 5. He thought his mother hired a private investigator to follow him and because of  
13 this surveillance, rumors started to spread that Mr. Corral was gay and a monster. *Id.*  
14 He stated that somehow people thought his wanting to hurt or kill others related to being  
15 perceived as gay, and this was relayed to the county. *Id.* Mr. Corral stated that he was  
16 then placed under surveillance in prison. *Id.*

17 Mr. Corral discussed with Dr. Saldanha the abuse and mistreatment he  
18 experienced while in custody. While in prison, Mr. Corral told Dr. Saldanha that the  
19 prison not only administered poison and drugged his food but also started administering  
20 medicine through his vent to help with focus and also pumped in "sexual gasses" to  
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22 <sup>1</sup> Dr. Saldanha testified during the hearing that he reviewed Mr. Corral's mental health records from the  
23 period of his incarceration at the Metropolitan Detention Center-Los Angeles and Mr. Corral's motion to  
24 dismiss filed on May 14, 2024 (admitted into evidence as Exhibit 1 during the hearing), subsequent to  
issuing his evaluation report. Dkt. 188 at 17:20-19:7. He stated that neither the mental health records nor  
Mr. Corral's recent filing changed his opinions and conclusions. *Id.*



1 make him gay. *Id.* Mr. Corral thought that the prison hired a neurologist to pump gasses  
2 into his cell to help him; while he thought the gasses helped with his racing thoughts,  
3 the gasses also poisoned him. *Id.* Mr. Corral never met this neurologist. *Id.* He stated  
4 that his brain was damaged by psychosurgery with chemicals, which resulted in him  
5 being very short fused. *Id.* at 6. Mr. Corral thought that the prison was using a “thought  
6 apparatus” to listen to his thoughts, which were then shared with inmates, officers, and  
7 foreign countries. *Id.* at 8.

8 Mr. Corral further told Dr. Saldanha that the government gave him mind erasers  
9 to get murder off his mind because the government thought he was going to kill  
10 someone. *Id.* When Dr. Saldanha asked Mr. Corral if he heard voices, Mr. Corral stated  
11 that he did not hear voices; rather he knew people were talking and can constantly hear  
12 the voices. *Id.* Based on this part of the evaluation, Dr. Saldanha opined that Mr.  
13 Corral’s thought content was notable for delusions of a paranoid and grandiose nature.  
14 *Id.* at 11.

15 Mr. Corral informed Dr. Saldanha that he had “weird and bad thoughts,” but he  
16 was reluctant to go into specifics of exactly what those thoughts were during the  
17 evaluation. *Id.* at 7. Mr. Corral likened the “bad” thoughts to a scene in a film, “Happy  
18 Gilmore” in which the main character has a vision of his grandmother kissing someone.  
19 *Id.* Mr. Corral was concerned that if he shared details of his thoughts, it would be used  
20 as evidence of a mental disorder. *Id.* Mr. Corral believed if he did have a mental  
21 disorder, it is “thought-based, but not schizo-based.” *Id.*

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1 With respect to his relationship with his current defense attorney, Mr. Corral told  
2 Dr. Saldanha that he sought to fire his attorney because she has not taken the following  
3 steps to demonstrate the conspiracy against him:

- 4 1. Obtaining MRI and PET scans of his brain to show where and how his brain  
5 was damaged.
- 6 2. Hiring a neurology expert to testify about his brain damage and what could  
7 have caused it.
- 8 3. Acquiring the vent from his prison cell to swab it.
- 9 4. Obtaining recordings of phone conversations of other inmates that likely have  
10 discussion of what they were told about what was being done to him.
- 11 5. Obtaining video recordings of people in the conspiracy going into the attic of  
12 the prison with tanks of gas.
- 13 6. Obtaining audio recordings of people in the conspiracy telling other inmates  
14 about what they were doing.
- 15 7. Hiring private investigators to interview witnesses including inmates who had  
16 been told about what was being done to him and his family who knew about  
17 the mind erasers.
- 18 8. Getting transaction receipts that would show where “they could have bought a  
19 thought apparatus” and for 5,000 earpieces for people to listen to his thought.

20 *Id.* at 13-14.

21 Mr. Corral voiced paranoid delusional beliefs regarding Judge Coughenour  
22 during his interview with Dr. Saldanha. He thought that Judge Coughenour could be  
23 involved in a conspiracy and “prevaricating.” *Id.* at 14. Specifically, he stated it was not  
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1 crazy to believe there would be conspiracies involving a judge in his situation because  
 2 he (Mr. Corral) was about to start the biggest riots in American history and that people  
 3 would try to overthrow the government. *Id.*

4 Relatedly, at the outset of the hearing, Mr. Corral wanted to bring to the  
 5 Magistrate Judge's attention his recently filed motion to dismiss, which was filed *pro se*.  
 6 Dkt. 188 at 5:22-6:6; *see also* Dkt. 188 (motion to dismiss). One of the attachments  
 7 included in his motion to dismiss was a "motion for recusal" directed at Judge  
 8 Coughenour. Dkt. 181-2 at 136-183. Mr. Corral stated in the motion, that Judge  
 9 Coughenour has displayed "deep-seated favoritism or antagonism that would make fair  
 10 judgment impossible" (citing *Liteky v. United States*, 510 U.S. 540, 554-56 (1994)). *Id.* at  
 11 166. Another attachment to the motion to dismiss was a writ of mandamus in which Mr.  
 12 Corral requests the Ninth Circuit to direct both Judge Coughenour and this Magistrate  
 13 Judge to recuse from the case. Dkt. 181-2, at 136-183; *see also* Dkt. 188 at 5:22-6:6.  
 14 The writ of mandamus has not been filed with the Ninth Circuit.

15 The Magistrate Judge informed Mr. Corral that the purpose of the instant hearing  
 16 was to evaluate his competency, and his motion to dismiss will be addressed by Judge  
 17 Coughenour on a later date<sup>2</sup>. Dkt. 188 at 8:7-11. The Court reviewed Mr. Corral's  
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19 <sup>2</sup> Mr. Corral's motion to dismiss and the exhibits concerning requests for recusal have not been referred  
 20 to the Magistrate Judge. The mandamus action was submitted as an exhibit to a motion to dismiss filed in  
 21 this Court – yet it was directed to the U.S. Court of Appeals for the Ninth Circuit. The Magistrate Judge's  
 22 impartiality is questioned in the exhibit that contains the mandamus action. Mr. Corral is relying on a  
 23 federal statute concerning recusal. "Federal judges are required by statute to recuse themselves from any  
 24 proceeding in which their impartiality might reasonably be questioned." *Milgard Tempering, Inc. v. Selas Corp. of Am.*, 902 F.2d 703, 714 (9th Cir. 1990); *see* 28 U.S.C. § 455(a) "[a]ny justice, judge, or  
 magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality  
 might reasonably be questioned"; *see also* 28 U.S.C. § 144 ("[w]henver a party to any proceeding in a  
 district court makes and files a timely and sufficient affidavit that the judge before whom the matter is  
 pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge  
 shall proceed no further therein..."). Mr. Corral did not file a sufficient affidavit in this Court, and the  
 recusal request was submitted by Mr. Corral and not his lawyer, directed to the Ninth Circuit rather than

1 motion to dismiss and the attachments for the purposes of evaluating his competency  
2 and these hand-written documents are consistent with Dr. Saldanha's findings – that Mr.  
3 Corral, as a result of paranoia and grandiose delusions, believes that many individuals,  
4 including the Judge, are part of a conspiracy against him.

5 With respect to his factual understanding of courtroom proceedings, Dr.  
6 Saldanha reports that Mr. Corral offered an accurate description of the roles of the  
7 judge, defense counsel, district attorney, and a jury. Dkt. 161 at 14. Mr. Corral was  
8 accurately able to identify the charges he has facing, define them, and the penalties  
9 associated with them. *Id.* Dr. Saldanha reported that during the interview, Mr. Corral  
10 was often pressured and long-winded in his speech and was at times tangential in his  
11 responses. *Id.* He opined that overall, including from his observations of Mr. Corral  
12 during the hearing, Mr. Corral showed no other behaviors incompatible with appropriate  
13 courtroom comportment. *Id.*; see also Dkt. 188 at 49:14-15:1.

14 Dr. Saldanha concluded that Mr. Corral met the criteria for the following  
15 diagnoses: (1) Schizoaffective Disorder, Bipolar Type, Multiple Episodes, Currently in  
16 an Acute Episode; (2) Antisocial Personality Disorder; (3) Cannabis Use Disorder,  
17 Moderate, in Sustained Remission, in a Controlled Environment; (4) Amphetamine Type  
18 Substance Use Disorder, Moderate, in Sustained Remission, in a Controlled  
19 Environment; (5) Opioid Use Disorder, Mild, In Sustained Remission, in a Controlled  
20 Environment; and (6) Cannabis Use Disorder, Moderate, In Sustained Remission, in a  
21 Controlled Environment. Dkt. 161 at 15.

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24 intended for this Court. The documents have been considered in the Findings and Conclusions only with  
respect to Mr. Corral's present competency to stand trial.

1 With respect to Mr. Corral's competency to stand trial, Dr. Saldanha pointed out  
2 that Mr. Corral's paranoid delusions, pressured speech, disorganized thought process,  
3 and his inability to consult with his lawyer with a reasonable degree of rational  
4 understanding, caused Dr Saldanha to conclude that Mr. Corral was suffering from a  
5 mental disease or defect at the time of the evaluation that rendered him unable to  
6 understand the nature and consequences of the proceedings against him and assist  
7 properly in his defense. Dkt. 161 at 21.

8 Mr. Corral chose not to testify at the competency hearing. Dkt. 188 at 53:9-15. At  
9 the close of the hearing, both the prosecution and the defense argued that the  
10 defendant is not presently competent to stand trial. Dkt. 188 at 54-56.

### 11 **C. Proposed determination of competency**

12 The Court should hold that, although Defendant Dylan Corral has adequate  
13 factual knowledge of the proceedings, by a preponderance of the evidence the record  
14 shows he does not currently demonstrate: (1) a rational understanding concerning the  
15 nature and object of the proceedings, (2) the ability to consult with his lawyer, or (3) the  
16 ability to assist in preparation of their defense. *Drope v. Missouri*, 420 U.S. 162, 171  
17 (1975).

18 Other Federal Courts, including the Ninth Circuit, have found that there was bona  
19 fide doubt regarding a defendant's competence in cases where defense counsel has  
20 proffered evidence that the defendant would no longer be able to assist rationally in his  
21 defense because he believed his attorney was part of a greater conspiracy against him.  
22 *See, e.g., Torres v. Prunty*, 223 F.3d 1103, 1109 (9th Cir. 2000) (explaining that  
23 defendant's counsel was in the best position to evaluate defendant's competence and  
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1 ability to render assistance in case whether defendant believed counsel and judge were  
2 part of conspiracy, and while her recommendation to the judge, while not necessarily  
3 sufficient to create a bona fide doubt, should have been considered seriously by the  
4 court); *Deere v. Woodford*, 339 F.3d 1084, 1085 (9th Cir. 2003), *as amended on denial*  
5 *of reh'g* (Oct. 2, 2003) (holding that a competency hearing should have been held in  
6 case where psychiatrist's declaration stated that while plaintiff understood the nature of  
7 the criminal proceedings, his mental disorders rendered him unable to assist counsel in  
8 the conduct of a defense in a rational manner.); *United States v. Nagy*, No. 96-CR601,  
9 1998 WL 341940, at \*7 (S.D.N.Y. June 26, 1998) (defendant's paranoid delusions of  
10 conspiracy against him rendered him unable to assist in his defense despite factual  
11 understanding of role of lawyers and judge in courtroom), *aff'd* 173 F.3d 847, 1999 WL  
12 245869 (2d Cir.), *cert. denied*, 528 U.S. 840 (1999); *United States v. Ghane*, 490 F.3d  
13 1036, 1040 (8th Cir. 2007) (finding that the district court did not err by relying on  
14 doctors' opinions that defendant had a factual understanding of the charges against  
15 him, but his understanding was not rational because he believed the charges were part  
16 of a wide ranging government conspiracy).

17 By a preponderance of the evidence, Mr. Corral is presently suffering from a  
18 mental disease or defect that would render him mentally incompetent to the extent that  
19 he is unable to understand the nature and consequences of the proceedings against  
20 him or to assist properly in his defense. 18 U.S.C. §§ 4241.

**CONCLUSION**

Based on the above analysis and reasoning, the Court should order the defendant to be committed to the custody of the Attorney General for restoration of his mental competency. 18 U.S.C. § 4241(d).

Pursuant to 28 U.S.C. § 636(b)(1), (b)(3) and Fed. R. Crim. P. 59, the parties shall have fourteen (14) days from service of this Report to file written objections. See *also* United States District Court for the Eastern District of California Local Rule of Criminal Procedure 430.1(j).

The Magistrate Judge's Findings and Recommendation will be reviewed *de novo*. *U.S. v. Rivera-Guerrero*, 377 F.3d 1064 (9<sup>th</sup> Cir. 2004).

Failure to file objections will result in a waiver of those objections for purposes of *de novo* review by the district judge, see 28 U.S.C. § 636(b)(1)(C), and can result in a waiver of those objections for purposes of appeal. See *Thomas v. Arn*, 474 U.S. 140, 142 (1985); *Miranda v. Anchondo*, 684 F.3d 844, 848 (9<sup>th</sup> Cir. 2012) (citations omitted). Objections are due within 14 days after service of these Findings and Recommendation.

Dated this 3<sup>rd</sup> day of June 2024.



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Theresa L. Fricke  
United States Magistrate Judge